

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BUTTE DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

MARK ERNEST SPANI,

Defendant.

CR 22–24–BU–DLC

ORDER

Before the Court is United States Magistrate Judge Kathleen L. DeSoto’s Findings & Recommendation Concerning Plea. (Doc. 99.) Because neither party objected, they are not entitled to *de novo* review. 28 U.S.C. § 636(b)(1); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003). Therefore, the Court reviews the Findings and Recommendation for clear error. *McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981). Clear error exists if the Court is left with a “definite and firm conviction that a mistake has been committed.” *United States v. Syrax*, 235 F.3d 422, 427 (9th Cir. 2000).

Defendant Mark Ernest Spani is charged with one count of conspiracy to possess with the intent to distribute controlled substances, in violation of 21 U.S.C. § 846 (Count I), one count of possession with the intent to distribute controlled substances, in violation of 21 U.S.C. § 841(a)(1) and 18 U.S.C. § 2 (Count II), one

count of distribution of controlled substances, in violation of 21 U.S.C. § 841(a)(1) (Count III), one count of possession of a firearm in furtherance of a drug trafficking crime, in violation of 18 U.S.C. § 924(c)(1) (Counts VII), one count of prohibited person in possession of a firearm, in violation of 18 U.S.C. § 922(g)(1) (Counts IX), and one count of conspiracy to commit money laundering, in violation of 18 U.S.C. § 1956(h) (Count XI), as set forth in the Indictment. (Doc. 20.) Judge DeSoto recommends that this Court accept Spani's guilty plea as to Counts II, IX, and XI after Spani appeared before her pursuant to Federal Rule of Criminal Procedure 11. The Court finds no clear error in Judge DeSoto's Findings and Recommendation and adopts them in full, including the recommendation to defer acceptance of the Plea Agreement until sentencing when the Court will have reviewed the Plea Agreement and Presentence Investigation Report.

Accordingly, IT IS ORDERED that Judge DeSoto's Findings and Recommendation (Doc. 99) is ADOPTED in full.

IT IS FURTHER ORDERED that Spani's motion to change plea (Doc. 91) is GRANTED.

IT IS FURTHER ORDERED that Spani is adjudged guilty as charged in Counts II, IX, and XI of the Indictment.

DATED this 5th day of December, 2022.



Dana L. Christensen, District Judge
United States District Court